

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

RONALD LEONARD MORAVEC,

Plaintiff,

v.

MARTIN O'MALLEY, Commissioner of
Social Security,

Defendant.

CV-21-88-GF-BMM

ORDER

INTRODUCTION

Petitioner Kevin E. Vainio ("Vainio"), counsel for Plaintiff Ronald Leonard Moravec ("Moravec"), filed a motion to award attorney fees based on a contingency fee agreement. (Doc. 51.) Defendant Martin O'Malley, the Commissioner of Social Security ("the Commissioner") takes no position on Vainio's motion (Doc. 53).

Vainio seeks a total amount of \$15,000, which he advises represents approximately 20% of the past due Social Security disability benefit paid to Moravec's account. (Doc. 51 at 1.) Vainio provides evidence that the Commissioner

is withholding \$24,247.00 for purposes of paying representation fees. (Doc. 51-1 at 1.) Vainio presents further evidence of the 75 hours of professional services rendered by Vainio in this matter. (*Id.* at 2-10.)

Section 406(b)(1)(A) of Title 42 of the U.S. Code permits a court to approve a reasonable fee for representation before a court, but provides that such a fee is not to exceed 25% of the total of the past due benefits. The Court determines that Vainio's fee request of \$15,000, amounting to 20% of Moravec's past due Social Security disability benefit, proves reasonable.

Accordingly, **IT IS ORDERED:**

1. Vainio's motion to award attorney fees based on a contingency fee agreement, pursuant to the Social Security Act § 206(b)(1) and 42 U.S.C. § 406(b)(1), is **GRANTED**. Vainio shall be awarded \$15,000 in fees. The \$15,000 in fees shall be paid out of Plaintiff's past-due benefits in accordance with agency policy.
2. The prior "Fee Agreement for Social Security Claim" between Vainio and Moravec is voided to the extent that such agreement authorizes a flat fee of \$6,000.
3. Vainio shall reimburse Moravec any fees that Vainio previously received pursuant to the Equal Access Justice Act ("EAJA"), 28 U.S.C. § 2412.

DATED this 10th day of July 2024.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Brian Morris, Chief District Judge
United States District Court